



# Inter-State Commission Amendment Act 1983

No. 142 of 1983

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## **An Act to amend the *Inter-State Commission Act 1975***

[Assented to 22 December 1983]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

### **Short title, &c.**

1. (1) This Act may be cited as the *Inter-State Commission Amendment Act 1983*.

(2) The *Inter-State Commission Act 1975*<sup>1</sup> is in this Act referred to as the Principal Act.

### **Commencement**

2. This Act shall come into operation on the day on which it receives the Royal Assent.

### **Interpretation**

3. Section 3 of the Principal Act is amended by omitting the definition of "person".

**Act to bind Crown**

4. Section 4 of the Principal Act is amended by omitting "Australia" (wherever occurring) and substituting "the Commonwealth".

5. Section 6 of the Principal Act is repealed and the following section is substituted:

**Airlines legislation not affected**

"6. Nothing in this Act or in the regulations affects, or authorizes action in connection with—

- (a) the operation of the *Airlines Agreement Act 1981* or of the agreement referred to in section 5 of that Act or any obligations imposed by, or other matters arising out of, that agreement; or
- (b) the performance of functions or the exercise of powers by the Independent Air Fares Committee under the *Independent Air Fares Committee Act 1981* or the performance of functions or the exercise of powers under that Act by the Minister administering that Act."

**Procedure at investigations**

6. Section 12 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:

"(2) Where the Commission is satisfied that it is desirable to do so in the public interest by reason of the confidential nature of any evidence or matter or for any other reason, the Commission may—

- (a) direct that an investigation or a part of an investigation shall take place in private and give directions as to the persons who may be present; or
- (b) give directions prohibiting or restricting the publication of evidence given before the investigation or of matters contained in documents lodged with the Commission."

**Failure of witness to attend**

7. Section 15 of the Principal Act is amended by omitting "3 months" and substituting "6 months".

**Refusal to be sworn or to answer questions**

8. Section 16 of the Principal Act is amended—

- (a) by omitting from sub-section (1) "3 months" and substituting "6 months"; and
- (b) by omitting sub-section (2) and substituting the following sub-section:

"(2) A person is not excused from answering a question or producing a document when required to do so under this Act on the ground that the answer to the question or the production of the document might tend to incriminate him or make him liable to a penalty, but his answer to any such question, or the production by him of any such document, is not admissible against him in proceedings

other than proceedings in respect of the falsity of evidence given by him or proceedings for—

- (a) an offence against this section; or
- (b) an offence against—
  - (i) section 6, 7 or 7A of the *Crimes Act 1914*; or
  - (ii) sub-section 86 (1) of that Act by virtue of paragraph (a) of that sub-section,that relates to this section.”.

### **Contempt of Commission**

9. Section 17 of the Principal Act is amended—

- (a) by omitting paragraphs (c) and (d) and substituting the following paragraphs:
  - “(c) create a disturbance, or take part in creating or continuing a disturbance, in a place where the Commission is holding an investigation;
  - (d) do any other act or thing that would, if the Commission were a court of record, constitute a contempt in the face of that court; or
  - (e) contravene a direction given under sub-section 12 (2).”; and
- (b) by omitting “3 months” and substituting “6 months”.

### **Fees and allowances to witnesses**

10. Section 18 of the Principal Act is amended by omitting “Australia” and substituting “the Commonwealth”.

### **Remuneration and allowances**

11. Section 19 of the Principal Act is amended—

- (a) by omitting paragraphs (1) (a) and (b) and substituting the following paragraphs:
  - “(a) the President shall be paid salary at the rate of \$71,500 per annum and an annual allowance at the rate of \$4,000 per annum; and
  - (b) a member other than the President shall be paid salary at the rate of \$56,500 per annum and an annual allowance at the rate of \$1,750 per annum.”;
- (b) by omitting from sub-section (3) “-1974”; and
- (c) by adding at the end thereof the following sub-section:
  - “(4) The salaries and allowances of the President and the other members are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.”.

### **Resignation**

12. Section 20 of the Principal Act is amended by omitting “, but the resignation does not have effect until it is accepted by the Governor-General”.

**Acting President**

13. Section 21 of the Principal Act is amended by omitting "Governor-General" from sub-section (1) and substituting "Minister".

14. Sections 22, 23 and 24 of the Principal Act are repealed and the following section is substituted:

**Application of Judges' Pensions Act**

"24. (1) Subject to this section, the *Judges' Pensions Act 1968* has effect as if the President were a Judge for the purposes of that Act.

"(2) Subject to sub-section (3), the *Judges' Pensions Act 1968* does not apply to the President if, immediately before his appointment as the President, he was an eligible employee for the purposes of the *Superannuation Act 1976*.

"(3) If the President was, immediately before his appointment as the President, an eligible employee for the purposes of the *Superannuation Act 1976*, and he elects, within 3 months after his appointment as President, by notice in writing to the Minister, to cease to be an eligible employee for the purposes of that Act, sub-section (2) does not apply, and shall be deemed not to have applied, to him and he shall be deemed to have ceased to be such an eligible employee immediately before his appointment as the President.

"(4) Where—

- (a) the President makes an election in accordance with sub-section (3); and
- (b) he would, but for this sub-section, be entitled to benefit under Division 1, 2 or 4 of Part V, or under Division 3 of Part IX, of the *Superannuation Act 1976*,

sub-section 80 (1) of that Act applies in relation to him as if he were not entitled to that benefit.

"(5) The amount of any pension that, but for this sub-section, would be payable to a person under the *Judges' Pensions Act 1968* in respect of any period by virtue of that person or another person having been a member shall be reduced by the amount of any other pension or retiring allowance payable to the first-mentioned person in respect of that period out of moneys provided in whole or in part by—

- (a) the Commonwealth, a State, the Government of the Northern Territory or the Administration of another Territory;
- (b) a body corporate established for a public purpose by a law of the Commonwealth, of a State or of a Territory; or
- (c) an incorporated company all the stock or shares in the capital of which is or are beneficially owned by the Commonwealth, a State or the Northern Territory."

**Outside employment**

15. Section 25 of the Principal Act is amended by omitting from sub-section (1) "A member" and substituting "Except with the consent of the Minister, a member".

**Staff of Commission**

16. Section 27 of the Principal Act is amended by omitting from sub-sections (1), (2) and (3) "*Public Service Act 1922-1975*" and substituting "*Public Service Act 1922*".

17. Section 29 of the Principal Act is repealed and the following section is substituted:

**Disclosure of interests by members**

"29. (1) Where a member has or acquires any interest, pecuniary or otherwise, that could conflict with the proper performance of his functions in relation to a proceeding—

- (a) he shall disclose the interest to the parties to the proceeding; and
- (b) except with the consent of all the parties to the proceeding, he shall not take part in the proceeding.

"(2) Where the President becomes aware that a member other than the President has in relation to a proceeding such an interest as is mentioned in sub-section (1)—

- (a) if the President considers that the member should not take part, or should not continue to take part, in a proceeding—he shall give a direction to the member accordingly; or
- (b) in any other case—he shall cause the interest of the member to be disclosed to the parties to the proceeding.

"(3) In this section—

- (a) a reference to a proceeding shall be read as a reference to a proceeding by way of—
  - (i) an investigation into a matter or matters by the Commission under this Act; and
  - (ii) an extension of such an investigation; and
- (b) a reference to a party to a proceeding shall be read as a reference to a person to whom the Commission has given a notice under section 11 in relation to the proceeding."

**Annual report by Commission**

18. Section 32 of the Principal Act is amended—

- (a) by omitting ", for presentation to the Parliament,"; and
- (b) by adding at the end thereof the following sub-section:

"(2) The Minister shall cause a copy of a report furnished to him under sub-section (1) to be laid before each House of the Parliament

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within 15 sitting days of that House after the receipt of the report by the Minister.”

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**NOTE**

1. No. 109, 1975.